

## **Chapter 38**

### **FIRE PREVENTION AND PROTECTION**

#### **Article I. In General**

- Sec. 38-1. Enforcement.
- Sec. 38-2. Violations; penalty.
- Sec. 38-3. Reward for reporting arson.
- Secs. 38-4 - 38-10. Reserved.

#### **Article II. Fire Department**

- Sec. 38-11. Establishment.
- Sec. 38-12. Personnel.
- Sec. 38-13. Authority at fires and other emergencies.
- Secs. 38-14 - 38-20. Reserved.

#### **Article III. Fire Code**

- Sec. 38-21. International Fire Code adopted.
- Sec. 38-22. Additional regulations.
- Sec. 38-23. Enforcement.
- Sec. 38-24. Modification.
- Sec. 38-25. Appeals.
- Secs. 38-26 - 38-40. Reserved.

#### **Article IV. Open Burning**

- Sec. 38-41. Adoption of state law.
- Sec. 38-42. General prohibition.
- Sec. 38-43. Exceptions.
- Secs. 38-44 - 38-50. Reserved.

#### **Article V. Fireworks**

- Sec. 38-51. Sale, possession, transport or discharge.
- Sec. 38-52. Manufacture or storage.
- Sec. 38-53. Permit.
- Sec. 38-54. Definition.
- Sec. 38-55. Penalty.

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## **ARTICLE I. IN GENERAL**

### **Sec. 38-1. Enforcement.**

The regulations of this chapter shall be enforced by the fire chief, the fire marshal and the city fire department unless otherwise herein provided. (Ord. No. 252, §2, 3-25-2004)

### **Sec. 38-2. Violations; penalty.**

Any reckless, knowing or intentional act or omission contrary to the requirements or directives of this chapter or any breach of any duty imposed by this chapter shall constitute a violation hereof. Any person who commits a violation of this chapter shall be subject to a penalty of not less than \$25.00 nor more than \$2,000.00 per violation per day upon conviction. Each day on which a violation is found to exist shall constitute a separate and sanctionable offense. In addition to the criminal penalties prescribed by this section, the city council may direct the city attorney to institute civil action or proceedings to prevent violations or threatened violations of these regulations or to obtain civil damages or penalties against violators of these regulations. (Ord. No. 252, §3, 3-25-2004)

### **Sec. 38-3. Reward for reporting arson.**

- (a) The city hereby offers a reward of \$250.00 to anyone who furnishes information leading to the arrest and conviction of any person or persons found guilty of arson committed within the corporate limits of the city.
- (b) This reward is a standing offer and shall be paid out of the general fund of the city.

(Ord. No. 71, §§1-2, 7-26-1990)

Secs. 38-4 - 38-10. Reserved.

## **ARTICLE II. FIRE DEPARTMENT**

### **Sec. 38-11. Establishment.**

It is hereby determined by the city council that there shall be maintained a fire department to provide a means for protection against conflagrations and other emergencies and the city shall provide for the maintenance, support and regulation of the fire department. Therefore the city fire department is hereby established. It may be composed of various member groups, including, but not limited to, paid, volunteer, part-time, and auxiliary firefighters and/or support staff, as well as civilian personnel. (Ord. No. 252, §1 (art. I, §1), 3-25-2004)

### **Sec. 38-12. Personnel.**

- (a) Fire Chief.
  - (1) The office of the fire chief is created. The fire chief is to have control of the fire department. The fire chief shall be appointed by the mayor, subject to the approval of the city council.
  - (2) All members of the city fire department, whether paid, volunteer, part-time auxiliary, support staff or civilian, shall be under the command of the fire chief and subject to all the provisions of the constitution and laws of the state, and the ordinances of the city.

- (3) The fire chief, or his designee, shall develop, maintain and implement standard operating guidelines, rules, regulations and/or written department operating policies for the department, a copy of which shall be located at the fire station and at city hall in the office of the city secretary.
  - (4) The fire chief, or his designee, shall determine the chain of command, and cause such to be recorded in the written department operating policies.
  - (5) In case of fire or other emergencies, the fire chief, or his designee, shall assume control and be in command of the incident. In the absence of the fire chief, or his designee, the chain of command as established by the written department operating policies shall determine what officer is to assume authority and responsibility.
- (b) Fire Marshal.
- (1) *Office created; duties.* The office of fire marshal is hereby created. The fire marshal for the city shall investigate or cause to be investigated, the cause, origin, and circumstances of every fire occurring within this city by which property has been destroyed or damaged, and shall especially make investigations as to whether such fire was the result of carelessness or design. The fire marshal shall maintain a record of all fires, together with all the facts, statistics and circumstances, including the origin of the fires and the amount of the loss, which may be determined by the investigation required by this chapter. The fire marshal's office, a division of the city fire department, shall be the arson investigation unit of the city. Each member of the arson investigation unit commissioned by the city shall be a peace officer as that term is used in Vernon's Ann. C.C.P. art. 2.12(7). The fire marshal and all arson investigators shall obtain and maintain certification and license as a peace officer from the Texas Commission on Law Enforcement Officers Standards and Education, as set out in V.T.C.A., Occupations Code ch. 1701. The fire chief will appoint a fire marshal from within his department, or assume the duties himself.
  - (2) *Investigations.* The fire marshal, when in his opinion further investigation is necessary, shall take or cause to be taken the testimony, or oath, of all persons supposed to be cognizant of any of the facts or to have means of knowledge in relation to the matter under investigation and shall cause the same to be reduced to writing; and if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, or with the attempt to commit the crime of arson, or of the conspiracy to defraud, or criminal conduct in the connection with such fire, he shall cause such person to be lawfully arrested and charged with such offense, or either of them, and shall furnish to the proper prosecuting attorney all such evidence, together with the names of witnesses and all of the information obtained by him, including a copy of all pertinent and material testimony taken in the case.
  - (3) *Powers as investigator.* The fire marshal shall have the power to summon witnesses before him to testify in relation to any matter which is by the provisions of this chapter a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent thereto. The said fire marshal is hereby authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him.
  - (4) *Refusal of witness to testify.* Any witness who refuses to be sworn, or who refuses to appear or testify, or who disobeys any lawful order of said fire marshal, or who fails or refuses to produce any book, paper or document touching any matter under examination, or who is guilty of any contemptuous conduct during any of the proceedings of the fire marshal on the matter of said investigation or inquiry, after being summoned to give

testimony in relation to any matter under investigation as aforesaid, shall be deemed guilty of a misdemeanor, and it shall be the duty of the fire marshal to cause all such offenders to be prosecuted.

- (5) *Investigations to be private.* All investigations held by or under the direction of the fire marshal may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.
  - (6) *Entry on premises.* The fire marshal shall have the authority at all times of day or night, when necessary, in the performance of the duties imposed upon him by the provisions of this chapter, to enter upon and examine any building or premises where any fire has occurred, and other buildings and premises adjoining or near the same, which authority shall be exercised only with reason and good discretion.
  - (7) *Inspection of premises.* The fire marshal, upon complaint of any person having an interest in any building or property adjacent, or without any complaint, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon buildings and premises within the city, and it shall be his duty to enter upon and make, or cause to be entered and made, a thorough examination of all mercantile, manufacturing and public buildings, together with the premises belonging thereto. Whenever he shall find any building or other structure which, for want of repair or by reason of age or dilapidated condition or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces or other heating appliances of any kind whatsoever, including chimneys, flues, and pipes with which the same may be connected, or a dangerous arrangement of lighting devices or systems, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, combustible, inflammable and refuse materials or other conditions which may be dangerous in character or liable to cause or promote fire or create conditions dangerous to the firefighters or occupants, he shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of said building or premises. Provided, however, that if said owner or occupant deems himself aggrieved by such order, he may, within five days of receipt of such order, appeal to the mayor in writing by delivery to the city secretary, who shall promptly investigate the cause of the complaint, and unless by his authority the order is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant. The fire marshal shall report to the state fire marshal any information in regard to fire investigations or inspections as may be required or requested.
- (c) Volunteer firefighter membership.
- (1) The fire department may include volunteer firefighters who shall report to the fire chief.
  - (2) The volunteer firefighters shall be governed by this chapter (as applicable) and by the rules and regulations promulgated by the fire chief.
  - (3) The city fire department volunteer membership is authorized to accept donations or contributions on its behalf for its volunteer services. The volunteer membership has the authority to hold fund-raising events as approved by a majority of the volunteer membership, and as confirmed by the fire chief, and the city council, provided that the city

council has final and ultimate authority to approve each fund-raising event, donations, and/or contributions.

- (4) Each volunteer firefighter, hereafter joining, shall at the time of joining be in good health and physical condition, be of good moral character and above 18 years of age. Each member shall be in good standing with all federal, state and local laws, ordinances and codes.
- (5) The fire chief may reinstate any previous volunteer and/or paid member to active volunteer status, provided the previous member meets the following criteria:
  - a. The member previously left the department in good standing, and severance from the department has not been more than three years;
  - b. The member of the paid force who has resigned his position in good standing requests to be a member of the volunteers.
- (6) In case of the failure of any volunteer firefighter to faithfully perform the duties assigned to him, criminal conviction above a Class C misdemeanor, or who displays conduct unbecoming of a firefighter, the fire chief may, with just cause, take appropriate disciplinary action, i.e., counseling, verbal and/or written reprimand, restrictive duty and, subject to city council approval, suspension and/or termination.
- (7) Any member expelled from the volunteers shall not be eligible to membership in the department for 36 months thereafter.

(Ord. No. 252, §1 (art. I, §2), 3-25-2004)

#### **Sec. 38-13. Authority at fires and other emergencies.**

- (a) The fire chief or officer in charge at the scene of a fire or other emergency involving the protection of life or property or any part thereof shall have the authority to direct such operation as necessary to extinguish or control any fire, perform any rescue operation, investigate the existence of any suspected or reported fires, gas leaks or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of duty.
- (b) In the exercise of such power, the fire chief, or his designee, is authorized to prohibit any person, vehicle, vessel or thing from approaching the scene and is authorized to remove or cause to be removed or kept away from the scene any vehicle, vessel, or thing which could impede or interfere with the operations of the fire department and, in the judgment of the fire chief or his designee, any person not actually and usefully employed in the emergency operation or in the preservation of property in the vicinity thereof.
- (c) The fire chief, or his designee, at the scene of an emergency, is authorized to place ropes, guards, barricades, or other obstructions across any street, alley, place or private property in the vicinity of such operations so as to prevent accidents or interference with the lawful efforts of the fire department to manage and control the situation and handle fire apparatus.

(Ord. No. 252, §1 (art. I, § 3), 3-25-2004)

Secs. 38-14 - 38-20. Reserved.

## ARTICLE III. FIRE CODE

### Sec. 38-21. International Fire Code adopted.

- (a) That certain document, a copy of which is on file in the office of the fire chief or fire marshal for the city, being marked and designated as the International Fire Code, including all appendices, standards, supplements, and errata, as published by the International Code Council, is hereby adopted as the code of the city for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of building and premises in the city and providing for the issuance of permits for hazardous uses or operations; and each and all of the regulations, provisions, conditions and terms of such International Fire Code, 2015 edition, are hereby referred to, adopted and made a part hereof as if fully set out in this section. (Ord. No. 402, §2, 5-14-2009; Ord. No. 552, §2, 11-13-2014)
- (b) The following sections are hereby revised:
- 101.1. Title.* These regulations shall be known as the International Fire Code of the City of Helotes, hereinafter referred to as "this code."
- 109.3. Violation penalties.* Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a Class C misdemeanor, punishable by fine of not more than \$2,000.00. Each day a violation continues after due notice has been served shall be deemed a separate offense.
- 111.4. Failure to comply.* Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than \$100.00 and more than \$500.00.

(Ord. No. 252, §1 (art. II, §§1- 2), 3-25-2004)

### Sec. 38-22. Additional regulations.

The following regulations shall be applicable in addition to the regulations set forth in the International Fire Code:

- (1) Unsafe buildings, structures, heating, etc.
- a. *Unsafe buildings or structures.* No owner or occupant of a building or other structure or premises shall keep or maintain the same when, for want of repair, or by reason of age or dilapidated condition, or for any cause, it is especially liable to fire, and which is so situated as to endanger buildings or property of others, or is especially liable to fire, and which is so occupied that fire would endanger other persons or their property.
- b. *Unsafe heating, lighting, storage, etc.* No owner or occupant of a building or other structure or premises shall keep or maintain the same with an improper arrangement of a stove, range, furnace, or other heating appliance of any kind whatever, including chimneys, flues, and pipes with which the same may be connected, so as to be dangerous in the matter of fire, or health, or safety of persons or property of

others, or shall keep or maintain any building, other structure or premises with any improper arrangement of a lighting device or system, or with a storage of explosives, petroleum, gasoline, kerosene, chemicals, vegetable products, ashes, combustibles, inflammable materials, or refuse, or with any other condition which shall be dangerous in character to the persons, health or property of others; or which shall be dangerous in the matter of promoting, augmenting or causing fires; or which shall create conditions dangerous to firefighters, or occupants of such buildings, structure or premises.

- c. *Notice required.* No prosecution shall be brought under subsection (1) of this section until the order provided in section 38-12(b)(7) be given, and the party notified shall fail or refuse to comply with the same.

(2) Removal of debris.

- a. The owner or person having under his control or in his possession upon any premises in the city any substances which have been rendered useless or unmerchantable by reason of any fire on such premises, or any debris resulting from such fire, must remove such substances and debris from such premises within five days after notice to do so has been served in writing by the fire marshal.
- b. Whenever any building or other structure in the city is partially burned, the owner thereof, or the person in charge or control thereof, shall, within ten days after written notice from the fire marshal to do so, remove all refuse, debris, charred and partially burned lumber and material from the ground; and if such building or other structure shall be burned to such an extent that it is rendered incapable of being repaired, the owner of the property upon which such structure is located, or person in charge or control thereof, shall, within ten days after written notice from the fire marshal to do so, remove all of the remaining portion of the building or structure from the ground.
- c. The fire marshal may extend the ten-day period of removal of such burned or partially burned buildings, when the insurance adjustment, if any, is still pending, but he shall establish a date for removal that recognizes the health and safety needs of the citizens and so notify the owner of the premises in writing.

(3) Fire lanes.

- a. *Definition.* A fire lane shall be defined as any area adjacent to the entrance or exit of any building or buildings deemed necessary by the fire chief. This area, now called "fire lane," is to remain free and unobstructed of parked vehicles or other obstacles at all times, day or night. This designated area may also include sidewalks, driveways, portions of parking lots or any other area directly adjacent to or near building entrances or exits, to include any fire hydrant.
- b. *Designation.* The fire chief is hereby duly authorized to designate a fire lane on any premises that, in his opinion, might hinder or cause slow response of fire apparatus or other emergency vehicles. A fire lane designated by the fire chief shall not make the city responsible for the upkeep of such area, but the owner of such property will continue to be responsible as upon initial designation of such fire lane by the fire chief. An official record of all locations of designated fire lanes shall be kept in the office of the fire chief. Owners of private property or their representative may request additional fire lanes be designated by the fire chief at his discretion.



- c. Notices; posting of signs.
  - 1. Upon designation of a fire lane by the fire chief, notice shall be given to the owner(s) of said property that signs are to be posted in that particular area. These signs shall be posted at designated locations and shall conform to the standard size, coloring, lettering ("FIRE LANE--NO PARKING AT ANY TIME"), and mounting set forth by the fire chief. The cost and maintenance of signs shall not be incurred by the city but by the owner(s) of said property. If so directed by the fire chief, painted red curbing with white stenciled letters stating "FIRE LANE--NO PARKING" will accompany any fire lane signs. The owner(s) of such premises may paint the curbing to conform to specifications described above if not required to do so by the fire chief, but he must approve such action.
  - 2. It is unlawful to park any vehicle, other than fire apparatus or other emergency vehicles, in any designated fire lane. It shall also be unlawful for any individual(s) to place any obstruction, for whatever purpose, in a designated fire lane.
  - 3. It shall be unlawful for any person to remove or attempt to remove or alter in any way any sign designating a fire lane.
- d. Removal of vehicles.
  - 1. The owner or the owner's agent may have any vehicle removed other than fire apparatus or any emergency vehicle, that is parked in any required fire lane. The cost of having the vehicle(s) removed and stored shall be incurred by the owner or operator of such vehicle(s). The owner or his agent who has a vehicle removed and stored shall not be held liable for any damage incurred by the vehicle owner or operator, provided that the movement and storage of such vehicle be accomplished by a vehicle wrecker service that is insured against such damages during tow procedures and a storage company that is insured against liability for property damage for vehicles being stored.
  - 2. Any vehicle(s) parked in a designated fire lane may be removed at the owner's expense by the fire marshal or the fire chief:
    - i. When a vehicle is repeatedly parked in a designated fire lane created pursuant to this section.
    - ii. When a vehicle is blocking the entrance to or exit from any business, apartment complex or place of assembly such that fire apparatus could not safely enter or exit.
    - iii. When the presence of a vehicle threatens the life and safety of the general public or by hindering the ability of fire apparatus or any emergency vehicle to respond to any emergency.
  - 3. The fire marshal or fire chief, when having a vehicle removed from a premise and stored, shall use the towing service and storage facility presently under contract with the city.
  - 4. No owner or agent of a premise shall close fire lanes or remove signs pertinent thereto unless written permission has been obtained from the fire chief.

(Ord. No. 252, §1 (art. II, §3), 3-25-2004)

### **Sec. 38-23. Enforcement.**

The Fire Code shall be enforced by the Fire Marshall, the Fire Chief, and the Fire and Police Departments of the City. (Ord. No. 252, §1 (art. II, §4), 3-25-2004; Ord. No. 428, §1, 3-25-2010)

### **Sec. 38-24. Modification.**

The fire marshal shall have power to modify the effect of any of the provisions of the fire codes upon particular property, upon application in writing by the owner or lessee, or his duly authorized agent, when there are unique obstacles in carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done, and the particulars of any such modification when granted or allowed, and the decision of the fire marshal thereon, shall be entered upon the records of the city and a signed copy shall be furnished to the applicant. (Ord. No. 252, §1 (art. II, §5), 3-25-2004)

### **Sec. 38-25. Appeals.**

Whenever the fire marshal shall disapprove any application, or refuse to grant a license or permit applied for, or when it is claimed that the provisions of the code do not apply or that the same has been wrongly interpreted by the fire marshal, the applicant may appeal from the decision of the fire marshal to the council within 30 days from the date of the decision of the fire marshal. Such an appeal must be filed in writing with the city secretary, who shall place the appeal on the next available city council agenda, provided that a filing fee of \$25.00 is paid to partially offset the costs of administration. (Ord. No. 252, §1 (art. II, § 6), 3-25-2004)

Secs. 38-26 - 38-40. Reserved.

## **ARTICLE IV. OPEN BURNING**

### **Sec. 38-41. Adoption of state law.**

The city hereby adopts the outdoor burning rules as outlined in 30 Tex. Admin. Code §§111.201--111.221. If a conflict occurs between 30 Tex. Admin. Code §§111.201--111.221 and this article, the state statute shall prevail. (Ord. No. 252, §1 (art. III, §1), 3-25-2004)

### **Sec. 38-42. General prohibition.**

No person may cause, allow, or permit any outdoor burning within the city limits, except as provided by this chapter. The burning of household trash, garbage of any form, or municipal solid waste, including grass, leaves, and branch trimmings, is prohibited within the city limits. It shall also be unlawful for any person to light or have lighted any fire in any street, alley, thoroughfare or public property. Outdoor disposal or disposition of any material capable of igniting spontaneously, with the exception of the storage of fossil fuels, shall not be allowed. No furniture, electrical insulation, treated and untreated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber shall be burned. (Ord. No. 252, §1 (art. III, § 2), 3-25-2004)

### **Sec. 38-43. Exceptions.**

Only fires under the conditions described below will be permitted:

- (1) *Fire training.* Outdoor burning shall be authorized for training of firefighting personnel when requested in writing and authorized by the city fire marshal's or the county fire marshal's office. The burning shall be authorized if notice of denial is not received within ten working days after the date of postmark or date of personal delivery of the request.
- (2) *Domestic outdoor fires.* Fires are allowed out-of-doors for cooking or warmth provided such a fire is built in a fireproof container, such as a bar-b-que pit or chimenea, made of brick, stone, metal, or other fireproof material, in such a manner to prevent said fire from escaping. Domestic outdoor fires do not require a burn permit or a permit fee. This subsection does not include the burning of domestic waste.

(Ord. No. 252, §1 (art. III, § 3), 3-25-2004; Ord. No. 402, §2, 5-14-2009)

Secs. 38-44 - 38-50. Reserved.

## **ARTICLE V. FIREWORKS**

### **Sec. 38-51. Sale, possession, transport or discharge.**

- (a) It shall be unlawful for any person to sell, offer for sale, barter, exchange, or give away fireworks of any kind, in any quantity, within the corporate limits of the city.
- (b) It shall be unlawful for any person to have, keep, transport, discharge, or otherwise use fireworks of any kind, in any quantity, within the corporate limits of the city, except as provided in section 38-53, and subsection (c) hereof.
- (c) A person may temporarily possess and transport fireworks for personal use during a period not to exceed seventy-two hours immediately preceding and including Christmas Day, New Year's Day, and the Fourth of July provided that:
  - (1) The fireworks are possessed in a motor vehicle while being transported for discharge outside the municipal city limits of Helotes; and
  - (2) The fireworks not exceeding in quantity two vendor's bags or two sealed display packages are kept in such bag or sealed display package with a receipt displaying the date of purchase securely attached to one of the vendor bags or sealed display packages; and
  - (3) The fireworks must be inaccessible to children under the age of eighteen years; unopened and in their original sealed manufacturer's packaging and stored in:
    - a. the trunk of a vehicle; or
    - b. the area behind the last upright seat of the vehicle, if the vehicle does not have a trunk.

(Ord. No. 016B, §1, 7-26-1984; Ord. No. 16C, 4-8-1987; Ord. No. 364, §1, 08-28-2008)

### **Sec. 38-52. Manufacture or storage.**

It shall be unlawful for any person to manufacture or store fireworks or components of fireworks of any kind, in any quantity, within the corporate limits of the city. (Ord. No. 016B, §2, 7-26-1984; Ord. No. 16C, 4-8-1987)

### **Sec. 38-53. Permit.**

- (a) *Eligibility; application; fee.* Any citizen of the City may give a fireworks display provided such person secures a permit from the City Council. Application therefore shall be addressed to the City Council, shall state the name and residence of the applicant, the time and place of the proposed exhibition, and a description of the kind, character, and quantity of the fireworks intended to be displayed, and shall be accompanied by a fee as prescribed in the most recent adopted fee schedule passed and approved by the City Council. The fee shall be non-refundable.
- (b) *Action by City Council.* The City Council shall act on the application and approve or reject it within its sole discretion and such decision shall be final. A copy of the City Council's approval shall constitute the applicant's permit.
- (c) *Limitations.* No such permit shall be granted to any applicant, or immediate member of his family, more than twice during any calendar year. Any such fireworks display shall conclude not later than 10:30 p.m. on the date specified in the permit, subject to the penalty provided herein.
- (d) *Indemnification of City.* If such permit is granted, the applicant shall fully indemnify and hold the City, its officers, employees, and agents completely free and harmless from any and all occurrences arising out of the applicant's use of the permit or the use of the permit in question by the applicant's family members, employees or agents, whether it results in bodily injury, death, disease, property damage, or property loss to any person. Each such permit shall so state, but this provision shall apply whether it does or not.

(Ord. No. 016B, §3, 7-26-1984; Ord. No. 394, §3, 2-12-2009)

### **Sec. 38-54. Definition.**

The term "fireworks," as used in this article, shall include but not be limited to firecrackers, Roman candles, sparklers, torpedoes, bombs, skyrockets, buzz bombs, atomic wings, cherry bombs, aerial flash salutes, and trail blazers. (Ord. No. 016B, § 4, 7-26-1984)

### **Sec. 38-55. Penalty.**

Each violation of this article shall be punished by a penalty of a fine of not less than \$50.00 nor more than \$2000.00. (Ord. No. 016B, §5, 7-26-1984; Ord. No. 364, §1, 08-28-2008)

Chapters 39 - 41. Reserved.